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## In the United States Patent and Trademark Office

Appellants : Irwin Jerrold Singer; Charles Edward Bolian II      Docket No.: 17037B

Serial No.: 09/954,807      Group: 1772

Confirmation No: 8210      Examiner: Aughenbaugh, Walter B.

Filed: September 12, 2001      Date: May 24, 2004

For: PROTECTIVE ELECTRET TREATED NONWOVEN WEB FOR SENSITIVE SURFACES

### Appeal Brief Transmittal Letter

Mail Stop Appeal Brief - Patents  
Commissioner For Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Pursuant to 37 C.F.R. 1.192, transmitted herewith in triplicate is an Appeal Brief pursuant to the Notice of Appeal which was mailed February 17<sup>th</sup>, 2004 and received in the Patent Office February 23<sup>rd</sup>, 2004.

Please charge the \$330.00 fee, pursuant to 37 C.F.R. 1.17(c), which is due to Kimberly-Clark Worldwide, Inc. deposit account number 11-0875. This Appeal Brief Transmittal Letter is submitted in duplicate.

Respectfully submitted,

IRWIN J. SINGER ET AL..

By: Robert A. Ambrose  
Robert A. Ambrose  
Registration No.: 51,231

### CERTIFICATE OF MAILING

I, Robert A. Ambrose, hereby certify that on May 24, 2004 this document is being deposited with the United States Postal Service as first-class mail, postage prepaid, in an envelope addressed to: Mail Stop Appeal Brief - Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

By: Robert A. Ambrose  
Robert A. Ambrose



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For: PROTECTIVE ELECTRET TREATED NONWOVEN WEB FOR SENSITIVE SURFACES

### Brief on Appeal to the Board of Patent Appeals and Interferences

- Mail Stop Appeal Brief - Patents  
Commissioner For Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Pursuant to 37 C.F.R. 1.192 Appellants respectfully submit this Brief in support of their Appeal of Examiner Aughenbaugh's **Final Rejection** of claims 1-11, 13-26 and 28-31 which was mailed on November 17, 2003.

On February 17, 2004, Appellants, pursuant to 37 C.F.R. 1.191 mailed a timely Notice of Appeal which was received in the Patent Office on February 23, 2004. Thus, the usual time for filing this Brief ends April 23, 2004. Accordingly, a petition for a one month extension of the time is submitted herewith, bringing the time to file this Brief to May 23, 2004, which falls on a Sunday. Therefore, it is believed that this Brief is timely filed on Monday, May 24, 2004 along with the petition for one month extension of the time. However, should the one month extension be determined to be insufficient, please charge any additional extension fees to deposit account number 11-0875.

In accordance with 37 C.F.R. 1.192(a) this Appeal Brief is filed in triplicate.

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#### Real Party in Interest

The present Application has been assigned to the Kimberly-Clark Worldwide, Inc.

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#### Related Appeals and Interferences

There are no other appeals or interferences known to Appellants, their legal representatives or assignee which will directly affect or be directly affected by or have a bearing on the Board's decision on this appeal.

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**Status of the Claims**

Claims 1-11, 13-31 remain in the application with claims 1-11, 13-26 and 28-31 being finally rejected. Claim 27 has been withdrawn and claim 12 has been cancelled.

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**Status of Amendments Filed Subsequent to Final Rejection**

No amendments have been filed subsequent to final rejection.

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**Summary of the Invention**

The present invention is directed to a material that protects articles having a sensitive surface, such as DVDs, CDs and the like, from damage caused by particles such as dust and dirt. This sensitive surface protective material comprises an electret treated spunbond nonwoven web comprising thermoplastic fibers, and the nonwoven web is bonded with a pattern having continuous bonded areas defining a plurality of discrete unbonded areas. Also provided are sleeves comprising such a sensitive surface protective material, for storing and protecting the sensitive surfaces of articles.

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**The Issues Presented**

Are claims 1-11 anticipated in the sense of 35 U.S.C. §102(b) by U.S. Pat. No. 5,667,562 to Midkiff ("Midkiff").

Is Claim 28 obvious in the sense of 35 U.S.C. §103(a) over Midkiff in view of Appellants' "admitted prior art".

Are claims 13-26 and 28-31 obvious in the sense of 35 U.S.C. §103(a) over Midkiff in view of U.S. Pat. No. 6,186,320 to Drew ("Drew").

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**Grouping of the Claims**

Claims 1-11 stand or fall together with the anticipation rejection.

Claim 28 stands with its relevant obviousness rejection.

Claims 13-26 and 29-31 stand or fall together with their relevant obviousness rejection.

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**Argument****Rejection of Claims 1-11:**

It is respectfully submitted that the Examiner's Final Rejection of claims 1-11 as anticipated by Midkiff is based on a clearly erroneous construction of Appellants' claims and/or of the teaching contained within the cited reference document and must be reversed.

As stated above, Appellants' claims are directed to a sensitive surface protective material which comprises an electret treated spunbond nonwoven web comprising thermoplastic fibers, wherein the nonwoven web is bonded with a pattern having continuous bonded areas defining a plurality of discrete unbonded areas. As this type of bonding is further described in the Application specification in the paragraph bridging pages 8 and 9, the fibers or filaments within the discrete unbonded areas are dimensionally stabilized by the continuous bonded areas that encircle, or surround each unbonded area.

The Examiner's position appears to be that because Midkiff is an electret treated web which teaches bonds at almost every fiber cross-over point, it teaches continuous bonded areas defining a plurality of discrete unbonded areas and therefore anticipates claims 1-11 of the application. In response, Appellants point out that the bonding of Midkiff is through-air bonding, which, as stated in Midkiff and as noted by the Examiner, bonds the fibers at the cross over points. Because the fibers in Midkiff are bonded to one another at the interstices or cross over points, this bonding does not and can not result in continuous bonded areas which surround and define the unbonded areas. Instead, the bonding in Midkiff results in a collection of bonded cross over points. These bonded cross over points are not taught to be connected together in any fashion and certainly not connected together into a continuous bonded area that surrounds or encircles an unbonded area.

Therefore, Midkiff fails to teach the claim limitation requiring that the nonwoven be bonded in a pattern having continuous bonded areas defining a plurality of unbonded areas. Hence Midkiff fails to anticipate claims 1-11, within the meaning of 35 U.S.C. § 102(b).

#### Rejection of Claim 28:

It is respectfully submitted that the Examiner's Final Rejection of claim 28 as obvious over Midkiff in view of the "admitted prior art" is based on a clearly erroneous construction of Appellants' claims and/or of the teaching contained within the cited references and must be reversed.

As stated above with respect to the rejection of claims 1-11, Midkiff fails to teach Appellants' claims requirements that the nonwoven be bonded in a pattern having continuous bonded areas defining a plurality of unbonded areas. The "admitted prior art" which the Examiner relies upon in combination with Midkiff is only the statement in Appellants' specification (Background section, page 1) that photographic transparencies are often protected by inserting a sheet of paper between each transparency. This statement cannot remedy the above-noted deficiencies of Midkiff and this combination does not describe each and every element as set forth Appellants' claimed invention.

Rejection of Claims 13-26 and 29-31:

It is respectfully submitted that the Examiner's Final Rejection of claims 13-26 and 28-31 as obvious over Midkiff in view of Drew is based on a clearly erroneous construction of Appellants' claims and/or of the teaching contained within the cited reference document and must be reversed.

As stated above with respect to the rejection of claims 1-11, Midkiff fails to teach Appellants' claims requirements that the nonwoven be bonded in a pattern having continuous bonded areas defining a plurality of unbonded areas. Drew relates to the construction of a sleeve for holding compact discs, for example, and the sleeve is said to be constructed of a single sheet of certain nonwoven which is of sufficient strength and durability to store two compact discs without requiring additional lamination to a backing sheet. The nonwoven itself is described to be made by a particular process wherein the extrusion spinnerets move back and forth over the fiber collection belt. However, Drew is non-descriptive with respect to bonding the nonwoven except to say "The non-woven mat of material is then run through compression rollers where the non- woven material is tack bonded together" (please see Drew at column 4, lines 56-58). This teaching of Drew does not remedy the above-noted deficiencies of Midkiff and the combination or replacement of Drew's nonwoven web with Midkiff's nonwoven web does not describe each and every element as set forth Appellants' claimed invention.

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**Conclusion**

For the reasons stated above it is Appellants' position that the Examiner's rejection of claims has been shown to be untenable and should be **reversed** by the Board.

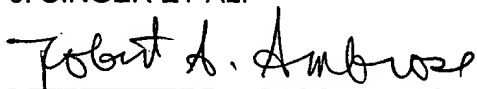
Please charge the \$330.00 fee, pursuant to 37 C.F.R. 1.17(c), for filing this Appeal Brief to Kimberly-Clark Worldwide, Inc. deposit account number 11-0875. Any additional prosecutorial fees which are due may also be charged to deposit account number 11-0875.

The undersigned may be reached at: 770-587-8908

Respectfully submitted,

IRWIN J. SINGER ET AL.

By: \_\_\_\_\_



Robert A. Ambrose

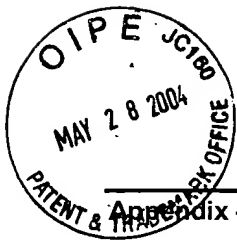
Registration No.: 51,231



# CERTIFICATE OF MAILING

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By: Robert A. Ambrose  
Robert A. Ambrose



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#### Appendix – The Claims On Appeal

The claims on appeal are claims 1-11, 13-26 and 28-31:

1. A sensitive surface protective material for protecting a sensitive surface of an article comprising an electret treated spunbond nonwoven web comprising thermoplastic fibers wherein the nonwoven web is bonded with a pattern having continuous bonded areas defining a plurality of discrete unbonded areas, wherein the sensitive surface protective material protects the sensitive surface from damage caused by particles.
2. The sensitive surface protective material according to claim 1, wherein the thermoplastic fibers comprise monocomponent filaments.
3. The sensitive surface protective material according to claim 2, wherein the thermoplastic monocomponent filaments comprise polypropylene.
4. The sensitive surface protective material of claim 1, wherein the thermoplastic fibers comprise multicomponent filaments.
5. The sensitive surface protective material of claim 4, wherein the multicomponent filaments are bicomponent filaments comprising a first polymer component and a second polymer component.
6. The sensitive surface protective material of claim 5, wherein the first polymer component comprises polyethylene and the second polymer component comprises polypropylene.
7. The sensitive surface protective material of claim 6, wherein the first polymer component and the second polymer component are arranged in a side-by-side configuration.
8. The sensitive surface protective material of claim 5, wherein the multicomponent filaments comprise a sheath/core configuration and the sheath comprises the first polymer component and the core comprises the second polymer component.
9. The sensitive surface protective material of claim 1, wherein the nonwoven web has a Gurley stiffness of less than about 80 mg.
10. The sensitive surface protective material of claim 1, wherein the nonwoven web has a Gurley stiffness in the range of about 15 mg to about 75 mg.
11. The sensitive surface protective material of claim 1, wherein the electret treatment charges the nonwoven web to about 1 kVDC/cm to about 20 kVDC/cm.

13. A storage sleeve for holding an article having a sensitive surface to protect the sensitive surface from damage comprising

a first web having a top edge, a bottom edge and two side edges and

a second web comprising an electret treated spunbond nonwoven web comprising thermoplastic fibers wherein the nonwoven web is bonded with a pattern having continuous bonded areas defining a plurality of discrete unbonded areas and having a top edge, a bottom edge and two side edges,

wherein the first web is interconnected with the second web at or near the bottom edge and two side edges of the first web to form a pocket to hold said article having a sensitive surface.

14. The storage sleeve according to claim 13, wherein the first web comprises a film.

15. The storage sleeve according to claim 14, wherein the film comprises a polyolefin selected from the group consisting of polyethylene and polypropylene.

16. The storage sleeve according to claim 13, further comprising a third web having a top edge, a bottom edge and two side edges,

wherein the second web is positioned between the first web and the third web and the first web and the third web are interconnected with the second web at or near the bottom edge and the two side edges of the first web and the third web to form a pocket to hold an article having a sensitive surface on each side of the second nonwoven web.

17. The storage sleeve according to claim 16, wherein the first web and the third web comprise a film.

18. The storage sleeve according to claim 17, wherein the film comprises a polyolefin selected from the group consisting of polyethylene and polypropylene.

19. The storage sleeve according to claim 18, wherein the nonwoven web comprises multicomponent thermoplastic filaments.

20. The storage sleeve according to claim 19, wherein the multicomponent thermoplastic filaments are bicomponent filaments comprising a first polymer component and a second polymer component.

21. The storage sleeve according to claim 20, wherein the first polymer component is polyethylene and the second polymer component is polypropylene.

22. The storage sleeve according to claim 21, wherein the first polymer component and the second polymer component are arranged in a side-by-side configuration.

23. The storage sleeve according to claim 21, wherein the multicomponent thermoplastic filaments comprise a sheath/core configuration and the sheath comprises the first polymer component and the core comprises the second polymer component.

24. The storage sleeve according to claim 13, wherein the nonwoven web comprises monocomponent thermoplastic filaments.



25. The storage sleeve according to claim 24, wherein the monocomponent thermoplastic filaments comprise polypropylene.
26. The storage sleeve according to claim 13, wherein the electret treatment charges the nonwoven web to about 1 kVDC/cm to about 20 kVDC/cm
28. A stack of articles having a sensitive surface, comprising a plurality of articles having at least one sensitive surface and a sensitive surface protecting material between each article in the stack, wherein the sensitive surface protecting material comprises the sensitive surface protecting material of claim 1.
29. A storage sleeve capable of holding and protecting an article having a sensitive surface, said storage sleeve comprising a sensitive surface protective material comprising an electret treated spunbond nonwoven web comprising thermoplastic fibers, wherein the nonwoven web is bonded with a pattern having continuous bonded areas defining a plurality of discrete unbonded areas, wherein the material protects the sensitive surface from damage caused by particles, wherein the storage sleeve has an open end to allow the article having the sensitive surface to be inserted into the storage sleeve and the storage sleeve has a shape to accommodate the article having a sensitive surface.
30. An article having a sensitive surface protected by the storage sleeve of claim 29, wherein the article is located inside the storage sleeve.
31. An article having a sensitive surface protected by the sensitive surface protective material of claim 1, wherein the sensitive surface of the article is in contact with the sensitive surface protective material.